

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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ADAM THULL,

Case No. 11-CV-2368 (PJS/LIB)

Plaintiff,

v.

ORDER

TECHTRONIC INDUSTRIES CO., LTD.;  
TECHTRONIC INDUSTRIES NORTH  
AMERICA, INC.; ONE WORLD  
TECHNOLOGIES, INC.; and RYOBI  
TECHNOLOGIES, INC.,

Defendants.

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Eric D. Pearson, HEYGOOD, ORR & PEARSON, for plaintiff.

John W. Bell, Meghan M. Sciortino, and Alexandria L. Bell, JOHNSON & BELL,  
LTD.; and Stan E. Siegel and Andrew J. Sveen, NILAN JOHNSON LEWIS PA, for  
defendants.

Plaintiff Adam Thull filed a products-liability suit against defendants after he  
was injured while using a table saw that defendants had designed and manufactured.

After a two-week trial, a jury returned a verdict for defendants.

Defendants sought to recover nearly \$90,000 in costs under Fed. R. Civ.

P. 54(d)(1) and 28 U.S.C. § 1920. ECF No. 243. The clerk allowed \$35,052.78 and entered  
a cost judgment against Thull in that amount. ECF No. 246. Thull moved for review,  
*see* D. Minn. LR 54.3(c)(3)(A), arguing that the Court should deny costs because he is

indigent. ECF No. 247. He attached a declaration describing his financial situation.

ECF No. 248-1 Ex. A.

Magistrate Judge Leo I. Brisbois issued a Report and Recommendation (“R&R”), recommending that Thull’s motion for review be granted and costs not be taxed. ECF No. 251. Judge Brisbois recognized that, while Fed. R. Civ. P. 54(d)(1) presumes that a prevailing party is entitled to costs, courts have the discretion to deny costs when the party to be taxed is indigent. *See Kaplan v. Mayo Clinic*, Civil No. 07-3630 (JRT/JJK), 2011 WL 3837095, at \*2 (D. Minn. Aug. 29, 2011). Judge Brisbois concluded on the strength of Thull’s financial declaration that Thull “has limited employment opportunities” and “no assets, no savings, no retirement plan,” and that his family members are “unable to cover basic living expenses and are at risk of losing their home.” ECF No. 251 at 4. Judge Brisbois added that Thull’s case was not frivolous, noting that the Court denied defendants’ motion for summary judgment and the case proceeded to a jury trial. *Id.* at 4-5.

Defendants at first objected to Judge Brisbois’s R&R, ECF No. 252, but have since withdrawn that objection, ECF No. 255.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, the Court ADOPTS the February 4, 2015, Report and Recommendation [ECF No. 251].

IT IS HEREBY ORDERED THAT:

1. Thull's motion for review of the clerk's entry of cost judgment [ECF No. 247] is GRANTED.
2. The cost judgment [ECF No. 246] is VACATED.
3. No costs will be taxed.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: March 9, 2015

s/Patrick J. Schiltz

Patrick J. Schiltz

United States District Judge